



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 25] नई दिल्ली, बुधवार, मई 11, 2005 / वैशाख 21, 1927
No. 25] NEW DELHI, WEDNESDAY, MAY 11, 2005 / VAISAKHA 21, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in the Lok Sabha on 11th May, 2005:—

BILL NO. 68 OF 2005

A Bill to consolidate and amend the law relating to the admiralty jurisdiction of courts, legal proceedings in connection with ships, their arrest, detention and sale and matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Admiralty Act, 2005.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and
commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “admiralty jurisdiction” means jurisdiction exercised by a court on any matter referred to in section 5;

(b) "admiralty proceeding" means any proceeding pending before a court exercising admiralty jurisdiction;

(c) "charge" means any charge with the exception of light dues and any other charges in respect of lighthouses, buoys, beacons or pilotage;

(d) "collision regulations" shall have the meaning assigned to this expression in the Merchant Shipping Act, 1958;

44 of 1958.

(e) "court" means the High Court or any other court exercising admiralty jurisdiction under section 3;

(f) "goods" means any property including live animals, containers, pellets or such other articles of transport or packaging supplied by the consignor, irrespective of the fact whether such property is to be carried on or under the deck;

(g) "High Court" shall have the meaning assigned to this expression in the Merchant Shipping Act, 1958;

44 of 1958.

(h) "inland waters" includes all waters that are in fact navigable, irrespective of whether they are affected by tides or are land-locked or open or contain salt or fresh waters, and any part of the sea adjacent to the coast of India notified by the Central Government to be inland waters for the purposes of this Act;

(i) "limits of the port" shall have the meaning assigned to this expression in the Indian Ports Act, 1908;

15 of 1908.

(j) "maritime lien" means the maritime lien specified in section 13;

(k) "master" shall have the meaning assigned to it in the Merchant Shipping Act, 1958;

44 of 1958.

(l) "port" shall have the meaning assigned to it in the Indian Ports Act, 1908;

15 of 1908.

(m) "ship" does not include a sailing vessel.

CHAPTER II

JURISDICTION OF COURTS

Jurisdiction
of courts.

3. (1) Subject to the provisions of sub-section (2), the civil jurisdiction in respect of all claims under this Act shall vest in the High Court concerned and be exercisable in accordance with the provisions contained in this Chapter.

(2) If at any time, the High Court is of the opinion that the number of cases filed under this Act is unduly large, it may, in consultation with the Chief Justice of India, by notification in the Official Gazette, confer admiralty jurisdiction in such matters, wholly or to the extent it considers necessary, on such of the principal civil courts of the State as may be specified in the notification.

(3) Any notification referred to in sub-section (2) may also contain such supplemental, incidental and consequential provisions as the High Court may deem necessary.

Transfer of
proceedings by
Supreme
Court.

4. The Supreme Court may, on application of any party, transfer, at any stage, any admiralty proceeding from one High Court to any other High Court and the latter High Court shall proceed to try, hear and determine the matter from the stage at which it stood at the time of transfer:

Provided that no such proceeding shall be transferred unless parties to the proceeding have been given an opportunity of being heard in the matter.

Admiralty
jurisdiction.

5. (1) The court shall have jurisdiction—

(a) to hear and determine any of the questions and claims mentioned in sub-section (2);

(b) in relation to any of the proceedings mentioned in section 7;

24 & 25 vict. c. 10.
53 & 54 vict. c. 27.
16 of 1891.

(c) any other admiralty jurisdiction which it had immediately before the commencement of this Act by virtue of the Admiralty Court Act, 1861 or the Colonial Courts of Admiralty Act, 1890 or the Colonial Courts of Admiralty (India) Act, 1891 or otherwise;

(d) any jurisdiction connected with ships which is vested in the High Court by rules of such court made after the commencement of this Act, assigning and directing the jurisdiction to be exercised by that court.

(2) For the purposes of clause (a) of sub-section (1), a court may exercise jurisdiction to hear and determine any of the following questions or claims, namely:—

(a) any claim to the possession or ownership of a ship or to the ownership of any share therein including a claim concerning employment or earnings relating to that ship;

(b) any question arising between the co-owners of a ship as to its possession, employment or earnings;

(c) any claim in respect of a registered mortgage or of charge on a ship or any share therein;

(d) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of admiralty;

(e) any claim for damage caused to a ship during her stay, business or voyage;

44 of 1958.

(f) any claim for damage caused by a ship including civil liability for damage caused by oil pollution covered under the Merchant Shipping Act, 1958;

(g) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment or in its operation, or in consequence of the wrongful act, neglect or default of—

(i) the owners, charterers or persons in possession or control of a ship; or

(ii) the master or crew of a ship, or any other person for whose wrongful act, neglect or default the owner, charterer or person in possession or control of a ship is responsible, being an act, neglect or default, in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage or disembarkation of persons on, in or from the ship;

(h) any claim for loss of, or damage to, goods carried on board a ship;

(i) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;

(j) any claim in the nature of salvage for services rendered in saving life from a ship or in preserving the ship, cargo, equipment, apparel or of any other property of the ship or wreck;

(k) any claim in the nature of towage in respect of a ship;

(l) any claim in the nature of pilotage in respect of a ship;

(m) any claim in respect of goods, materials, bunker or other necessities supplied to a ship or any services rendered to a ship for her operation or maintenance.

Explanation.— For the purposes of this clause, the expression “services” with reference to a claim shall include a claim made towards insurance for such services;

(n) any claim in respect of the construction, repair or equipment of a ship or in respect of any port dues, fee and other charges to the Port Authorities under the Indian Ports Act, 1908, as amended from time to time or rates and other charges due under the Major Port Trusts Act, 1963; 15 of 1908.
38 of 1963.

(o) notwithstanding anything contained in the provisions of sections 150 and 151 of the Merchant Shipping Act, 1958, any claim by a master or member of the crew of a ship for wages including any sum allotted out of wages or adjudged to be due which may be recoverable as wages; 44 of 1958.

(p) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;

(q) any claim arising out of an act which is or is claimed to be in the nature of general average.

Explanation.—For the purposes of this clause, “general average” means any extraordinary sacrifice or expenditure voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the ship property imperilled in the common adventure;

(r) any claim arising out of bottomry.

(3) While exercising jurisdiction under clause (b) of sub-section (2), the court may settle any account outstanding and unsettled between the parties in relation to a ship, and direct that the ship, or any share thereof, shall be sold, or make such other order as the court thinks fit.

(4) The provisions of this section shall apply –

(a) in relation to all ships whether Indian or not irrespective of the residence or domicile of owners thereof;

(b) in relation to all maritime claims, wherever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land); and

(c) to all registered mortgages or charges, whether legal or equitable, including mortgages and charges created under any foreign law.

Conditions in
respect of
claims in an
action *in rem*.

6. (1) The admiralty jurisdiction of the court shall not be invoked by an action *in rem* by arrest of a ship, in the case of a ship registered in India as an Indian ship, unless six clear days’ notice in writing is served upon the registered owner or the master of the ship intended to be proceeded against, stating the cause of action and the quantum of claim and the date and time of application to the court for arrest and calling upon the owner or master to provide security for the claim to the satisfaction of the admiralty court in lieu of the arrest and where such a security is provided, the court shall entertain the action without arresting the ship and shall order the arrest of the ship only in the event of failure to provide such security.

(2) Notwithstanding anything contained in this Act or any other law for the time being in force, the admiralty jurisdiction of the High Court shall not be invoked by an action *in rem* unless the ship against which the proceedings have been commenced is within the territorial or inland waters of India at the time of commencement of the proceedings and as such is within the jurisdiction of that High Court:

Provided that no such ship shall be arrested unless there is failure to provide security.

(3) The admiralty jurisdiction of the court shall not be invoked by an action *in rem* against a vessel arising out of a breach of contract and a claim in such case may be enforced by an action *in personam* under this Act.

Jurisdiction in
personam.

7. (1) The jurisdiction of the court may be invoked by an action *in personam* in the cases,—

(i) referred to in clauses (a) to (c) of sub-section (2) of section 5; or

(ii) of maritime lien or charge on any ship or its property including bunker.

(2) In the case of any such claim as is mentioned in clauses (e) to (r) of sub-section (2) of section 5, where—

(a) the claim arises in connection with a ship; and

(b) the person who would be liable on a claim in an action *in personam* (hereinafter referred to as “the relevant person”) was, when the cause of action arose, the owner, or charterer, or in possession, or in control, of a ship,

admiralty jurisdiction may be invoked (whether or not the claim gives rise to a maritime lien on that ship) by an action *in rem* against,—

(i) that ship, if at the time when the action is brought the relevant person is either the beneficial owner of that ship as respects all the shares in it or the charterer of it under a charter by demise; or

(ii) any other ship of which, at the time when the action is brought, the relevant person is the beneficial owner as respects all the shares in it.

(3) Where, in the exercise of its admiralty jurisdiction, the court orders any ship or its property to be sold, the court shall have jurisdiction to hear and determine any question arising as to title to the proceeds of sale.

8. (1) This section applies to any claim for damage or loss of life or personal injury arising out of—

(a) a collision between ships; or

(b) the carrying out of or omission to carry out, a manoeuvre in the case of one or more ships; or

(c) non-compliance, on the part of one or more ships, with the collision regulations.

(2) While exercising admiralty jurisdiction, a court shall not entertain any action *in personam* against any defendant unless—

(a) such defendant, at the time of commencement of the action, actually and voluntarily resides or carries on business or personally works for gain in India:

Provided that an action may be entertained in any case where there are more defendants than one if the defendant who does not actually and voluntarily reside or carry on business or personally works for gain in India is made a party to such action either with the leave of the court, or each of such defendants acquiesces in, such institution; or

(b) the cause of action, wholly or in part, arises in India, including inland waters of India or within the limits of a port of India; or

(c) an action arising out of the same incident or series of incidents is pending in a court or has been heard and determined by such court; or

(d) a ship is beneficially owned or chartered by demise by the defendant and such ship has been arrested and proceedings are pending in respect thereof.

(3) The court shall not entertain any action *in personam* to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside India against the same defendant in respect of the same incident or series of incidents have been discontinued or have otherwise come to an end.

(4) The provisions of sub-sections (2) and (3) of this section shall apply to counter-claims (except counter-claims in proceedings arising out of the same incident or series of incidents) as they apply to actions, and a reference to the plaintiff and the defendant for this purpose shall be construed as reference to the plaintiff in the counter-claim and the defendant in the counter-claim respectively.

Restrictions on
entertainment of
actions *in
personam* in
collision and
other similar
cases.

(5) The provisions of sub-sections (2) and (3) of this section shall not apply to any action or counter-claim if the defendant submits or agrees to submit to the jurisdiction of the court.

(6) Subject to the provisions of sub-section (3), the court shall have jurisdiction to entertain an action *in personam* to enforce a claim to which this section applies whenever any of the conditions specified in clauses (a) to (d) of sub-section (2), are satisfied and where applicable, the rules of the court relating to the service of process outside the jurisdiction shall apply.

Directions by court.

9. Notwithstanding anything contained in section 5 of this Act, it shall be open to the court in its discretion, at any stage of the proceedings to treat proceedings *in rem* or *in personam*, either in whole or in part, and to grant such reliefs and make such directions and orders (including amendments to the pleadings) as it may consider appropriate and just.

Vesting of rights on sale of ship.

10. On the sale of a ship by the court in exercise of its admiralty jurisdiction, the ship shall vest in the purchaser free from all encumbrances.

Distribution of sale proceeds.

11. (1) In an action *in rem*, where the court has ordered the property proceeded against to be sold—

(a) a notice in the manner provided in sub-section (2) shall be given by the court; and

(b) any party which obtains a decree or order against the said property may claim such reliefs as are provided in sub-section (3).

(2) For the purposes of clause (a) of sub-section (1), a notice shall be given in one international and one national newspaper as the court may specify containing the following particulars, namely:—

(a) number of the action;

(b) names of the parties to an action;

(c) gross sale proceeds; and

(d) the order of priority of the claim to the sale proceeds.

(3) Any party referred to in clause (b) of sub-section (1) may apply to the court by a notice of motion for an order determining the order of priority of the claims against the proceeds of the sale of the property.

(4) The court shall determine order of priority of the claim to the sale proceeds on expiration of the period of ninety days from the publication of notice under sub-section (2):

Provided that any party having a claim to the property or the proceeds of sale thereof may apply to the court before the expiry of period of ninety days for leave to intervene and prove claims by filing an action before it or by filing a suit before any other appropriate court before the expiration of that period.

(5) The court may extend the period of ninety days on the application of any party which has instituted proceedings before any other court as provided in sub-section (4) or before the court of competent jurisdiction in India for obtaining a decree against the property or proceeds of sale and the said court shall not disburse the sale proceeds or determine priority until thirty days after the disposal of the said suit or action and any appeal therefrom.

(6) Notwithstanding the provisions contained in sub-section (3) above, the court may determine priority among the parties and direct payment out of the sale proceeds on an application by any party which has obtained a decree or order against the ship or its

property if the court is of the opinion that the claim of the applicant is entitled to priority over the claim in respect of which a suit or action has been instituted:

Provided that the court shall provide opportunity of hearing to all parties which may have made claims and filed suit or action against the property or sale proceeds within the prescribed period of ninety days or such other period which may be extended by the court before determining priority and directing disbursement out of the sale proceeds.

12. (1) The order of claims determining *inter se* priority in an admiralty proceeding shall be as follows:—

Order of priority of claims.

(a) a claim on any ship or its property including bunker where there is a maritime lien and action is proceeded against ship or its property;

(b) mortgages and charges on a ship or its property where an action is proceeded against ship or its property;

(c) all other claims.

(2) The priority among the claims *inter se* with respect to clause (a) of sub-section (1) shall be as follows:—

(a) claims for salvage of life, ship or its property provided that salvage of life shall take priority over other salvages;

(b) wages and other sums due to the master or members of crew of the ship in respect of their employment on the ship;

(c) (i) claims in respect of loss of life or personal injury having a direct connection with the operation of the ship;

(ii) claims for contribution for general average;

(iii) claims based on tort arising out of physical damage caused by the operation of the ship other than loss or damage to cargo containers and passengers' effects carried on the ship;

(iv) bottomry;

(d) port, canal and other waterway dues and pilotage dues.

(3) The following principles shall apply in determining the priority of claims *inter se*—

(a) prior claims shall exclude subsequent ones;

(b) if there are more claims than one in any category of priority, they shall rank *pari passu*;

(c) claims for various salvages shall rank in inverse order of time when the claims secured thereto accrue;

(d) claims for salvage, port dues, wages and claims in the nature of general average shall take priority over all other claims mentioned in clause (c) of sub-section (2) notwithstanding the fact that the claims arose earlier.

13. (1) Maritime lien shall attach to a ship or its property in respect of the following, namely:—

Maritime lien.

(a) claim for salvage of life, ship or its property;

(b) wages and other sums due to the master or members of crew of the ship in respect of their employment on the ship;

(c) claim for loss of life or personal injury having a direct connection with the operation of the ship;

(d) claim for contribution to general average;

(e) port, canal and other waterway dues and pilotage dues;

(f) claim based on tort arising out of physical loss or damage caused by the operation of the ship other than the loss or damage to cargo, containers and passengers' effects carried on the ship, the date of accrual of such maritime lien being the date on which the operations giving rise to the said claim were performed.

(2) No maritime lien shall attach to a vessel to secure a claim which arises out of or results from:—

(a) damage in connection with the carriage of oil or other hazardous or noxious substances by sea for which compensation is payable to the claimants pursuant to an international convention providing for strict liability, compulsory insurance or any other means of securing such claim;

(b) the radio-active properties or a combination of radio-active properties with toxic, explosive or other hazardous properties or nuclear fuel or radio-active products or waste.

(3) A maritime lien shall stand extinguished on the expiry of one year from the date of its creation under sub-section (1):

Provided that the claim, if any, not barred by limitation, may be enforced by an action *in personam*:

Provided further that the period of one year may be extended further by the court if the claimant of lien is unable to commence an action to enforce the lien against the ship or its property for reasons beyond his control.

Procedure in
respect of
foreign ships.

14. (1) In all actions under this Act, the nationality of the ship proceeded against shall be stated in the plaint, and if the ship is a foreign ship, notice or institution of the suit shall be given to the Consulate of the State to which the ship belongs.

(2) A statement of service of such notice or a statement that there is no such Consulate in the City, shall be made in the affidavit in support of any application for arrest of the ship.

(3) If a notice is served on the Consulate, a copy of the said notice shall be annexed to the affidavit.

(4) For the purposes aforesaid, it would be sufficient service if a notice is served on a Consul or any other officer in the Consulate.

Protection of
owner, demise
charterer,
manager or
operator of
ships arrested.

15. (1) The court may, as a condition of arrest of a ship, or for permitting an arrest already effected to be maintained, impose upon the claimant who seeks to arrest or who has procured the arrest of the ship an obligation to provide such security and upon such terms as may determine, for any loss or damage which may be incurred by the defendant as a result of the arrest, and for which the claimant may be found liable, including but not restricted to the following:—

(a) the arrest having been wrongful or unjustified; or

(b) excessive security having been demanded and provided.

(2) Where pursuant to sub-section (1), the security has been provided, the person providing such security may at any time apply to the court to have the security reduced, modified or cancelled.

CHAPTER III

PROCEDURE AND APPEALS

Code of Civil
Procedure to
apply.

16. (1) The provisions of the Code of Civil Procedure, 1908 shall apply in all the proceedings before the court in so far as they are not inconsistent with or contrary to the provisions of this Act or the rules made thereunder. 5 of 1908.

(2) The admiralty court shall have all the powers of a civil court in dealing with any application before it and of passing such interim and other orders as it may consider necessary and appropriate to protect the interests of the parties before it.

5 of 1908.

17. (1) In pursuance of the provisions of section 140 of the Code of Civil Procedure, 1908, the Central Government shall appoint and publish in the Official Gazette a list of assessors with such qualifications or experience in admiralty and maritime matters as may be prescribed.

Assistance of assessors.

(2) The appointment of assessors shall not be construed as a bar to the examination of expert witnesses by any of the parties in any admiralty proceeding.

(3) The Central Government may make rules prescribing the qualifications for assessors, the nature of duties to be performed by them and the fees to be paid, to them and other ancillary and incidental matters.

18. Notwithstanding anything contained in the provisions of any other law, it shall be open to the court in admiralty proceedings to refer, with the written consent of the parties, the entire dispute before it or such questions of law or fact raised thereby, as the court may consider necessary, to arbitration and dispose of the dispute or the questions, as the case may be, in conformity with the award unless modified by the court for reasons to be recorded in writing.

Reference to arbitration.

19. An appeal shall lie from any judgment, decree or final order of a single Judge of the High Court or any other court exercising admiralty jurisdiction under this Chapter to a Division Bench of the High Court.

Appeal.

CHAPTER V

MISCELLANEOUS

20. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may regulate by rules, the practice and procedure of admiralty jurisdiction under this Act including fees, costs and expenses in such proceedings.

(3) Until rules are made under sub-section (2) by the Central Government, the existing rules governing the exercise of admiralty jurisdiction in the High Courts shall be applicable.

(4) Every rule made, under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. (1) The following enactments are hereby repealed—

Repeal and savings.

12 & 13 Vict.
c. 96.
23 & 24 Vict.
c. 88.
24 & 25 Vict.
c. 10.
53 & 54 Vict.
c. 27.
16 of 1891.

(a) the Admiralty Offences (Colonial) Act, 1849;

(b) the Admiralty Jurisdiction (India) Act, 1860;

(c) the Admiralty Court Act, 1861;

(d) the Colonial Courts of Admiralty Act, 1890;

(e) the Colonial Courts of Admiralty (India) Act, 1891;

(f) the provisions of Letters Patent, 1865 in so far as they apply to the admiralty jurisdiction of the Bombay, Calcutta and Madras High Courts.

(2) Notwithstanding the repeal of any of the enactments mentioned in sub-section (1), any rule, notification, regulation, bye-law or order previously issued shall, in so far as such rule, notification, regulation, bye-law or order is not inconsistent with any of the provisions of this Act or any rule made under section 20, continue in force as if it had been issued or made under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Admiralty Laws in India are based on the British Acts which are more than a century old. While the British Acts has been revised from time to time, the Admiralty laws applicable to India remained unchanged.

2. The maritime industry has been highlighting the need to update India's Admiralty Laws to be responsive to the needs of the Industry and to ensure that the maritime disputes are disposed of expeditiously and effectively.

3. The Supreme Court in its judgment in *M.V. Elizabeth & Others Vs Harwan Investment and Trading Pvt. Ltd.* (JT 1992 (2) SC (65) advised on the need to codify and clarify the Admiralty laws of the country. It also advised to update these laws to serve the needs of the Shipping industry. The matter was, accordingly, referred to the Law Commission. Various issues including representations from the shipping industry were examined by the Law Commission. In its 151st Report tabled in Parliament in August, 1995 the Law Commission recommended for enacting a new Admiralty Act of India. The present proposal is to give effect to the said recommendations.

4. The objective of the proposed Admiralty Bill is to consolidate and amend the law relating to Admiralty jurisdiction of Courts, legal proceedings in connection with ships, their arrest, detention and sale and matters connected therewith or incidental thereto. It is proposed to enlarge the scope of the legislation to cover claims pertaining to pollution damages, loss of life, personal injury, towage of ships, pilotage of ships, port dues, disbursement made by the ship owners and agents of ships.

5. The Bill, *inter alia*, provides for vesting of civil jurisdiction in respect of various types of claims pertaining to shipping industry in High Courts, power of Supreme Court to transfer any proceedings from one High Court to another, power of the High Court to confer Admiralty jurisdiction in consultation with the Chief Justice of India on any principal civil court of the State. It also spells out Admiralty jurisdiction and mode of exercising it, conditions in respect of claims in an action *in rem*, jurisdiction *in personam*, restrictions on entertainment of actions in cases pertaining to action *in personam* in collision of ships.

6. The Bill also makes provisions for vesting of rights on sale of ships, distribution of sale proceeds, order of priority of claim, maritime lien, procedure in respect of foreign ships and protection of owner, demise charterer, manager or operator of ships arrested. The Bill also provides for application of Code of Civil Procedure, assistance of assessors, reference to arbitration and appeal. It also confers upon the Central Government the power to make rules besides provision for repeal of the existing laws on the subject as recommended by the Law Commission.

7. The proposed Bill takes into account the needs of the maritime industry and will be conducive to the efficiency and development of the industry.

8. The Bill seeks to achieve the above stated objectives.

T. R. BAALU.

NEW DELHI;

The 31st March, 2005

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 17 of the Bill empowers the Central Government to make rules prescribing the qualifications for assessors, the nature of duties to be performed by them and the fees to be paid to them and other ancillary and incidental matters. Sub-clause (1) of clause 20 empowers the Central Government to make rules for carrying out the provisions of the Bill. Sub-clause (2) of clause 20 empowers the Central Government to make rules to regulate the practice and procedure of admiralty jurisdiction including fees, costs and expenses in such proceedings. And all such rules made under the provisions of the Bill are required to be laid in Parliament.

The matters in respect of which rules may be made in accordance with the provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

G. C. MALHOTRA,
Secretary-General.